

Zoning Text Amendment No.: 16-XX
Concerning: Agricultural Zone –
Transfer of Development
Rights Requirements
Draft No. & Date: 1- 11/14/16
Introduced:
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor:

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- exempt certain dwellings in the Agricultural Zone from the calculation of density under certain circumstances;
- change the name of “Farm Tenant Dwelling” to “Farm Labor Housing Unit”, and
- generally amend the provisions concerning the special requirements for the transfer of density

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-1.4	“Defined Terms”
Section 1.4.2.	“Specific Terms and Phrases Defined”
Division 3.1.	“Use Table”
Division 3.3.	“Residential Uses”
Section 3.3.3.	“Accessory Residential Uses”
Section 3.5.6.	“Lodging”
DIVISION 59-4.	“Development Standards for Euclidean Zones”
DIVISION 59-4.2.	“Agricultural Zone”
Section 4.2.1.	“Agricultural Reserve Zone (AR)”
Section 6.2.4.	“Parking Requirements”
Section 6.3.4.	“Rural Open Space”
OLD ZONING ORDINANCE TO NEW ZONING ORDINANCE SECTION CROSS REFERENCE	

EXPLANATION: **Boldface** indicates a Heading or a defined term.

Underlining indicates text that is added to existing law by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

* * * indicates existing law unaffected by the text amendment.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-1.4. is amended as follows:

Division 1.4. Defined Terms

* * *

Section 1.4.2. Specific Terms and Phrases Defined

In this Chapter, terms that are not specifically defined have their ordinary meaning.

The following words and phrases have the meanings indicated.

* * *

Farm [Tenant Dwelling] Labor Housing Unit: See Section [3.3.3.E.1](#)

* * *

Sec. 2. DIVISION 59-3. is amended as follows:

Division 3.1. Use Table

Section 3.1.6. Use Table

The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under Division [4.9](#).

* * *

USE OR USE GROUP	Definition s and Standards	Ag	Rural Residential				Residential												Commercial/ Residential			Employment				Industrial		
							Residential Detached							Residential Townhouse			Residenti al Multi- Unit											
			AR	R	RC	RNC	RE- 2	RE- 2C	RE -1	R- 200	R- 90	R- 60	R- 40	TLD	TMD	THD	R- 30	R- 20	R- 10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM
* * *																												
RESIDENTIAL																												
ACCESSORY RESIDENTIAL USES	3.3.3.																											
* * *																												
Farm [Tenant Dwelling] <u>Labor Housing Unit</u>	3.3.3.E	L	L	L	L	L	L	L	L																			

* * *

Division 3.3. Residential Uses

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Section 3.3.3. Accessory Residential Uses

A. Accessory Apartment, In General

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2. Use Standards for all Accessory Apartments

a. Where an Accessory Apartment is allowed as a limited use, it must satisfy the following standards:

* * *

iv. An Accessory Apartment must not be located on a lot where any other allowed rental Residential use exists; however, an Accessory Apartment may be located on a lot in an Agricultural or Rural Residential zone that includes a Farm [Tenant Dwelling] Labor Housing Unit or a Guest House.

E. Farm [Tenant Dwelling] Labor Housing Unit

1. Defined

Farm [Tenant Dwelling] Labor Housing Unit means a dwelling unit accessory to the farm and under the control of the owner or operator of the farm on which the dwelling unit is located and occupied by an agricultural worker actively engaged in farming on a full-time or part-time basis. Farm [Tenant Dwelling] Labor Housing Unit includes up to 3 mobile homes. A Farm [Tenant Dwelling] Labor Housing Unit is not restricted by the definition of household or dwelling unit, and may share a well or septic system or both.

2. Use Standards

Where a Farm [Tenant Dwelling] Labor Housing Unit is allowed as a limited use, it must satisfy the following standards:

- a. In the Agricultural and Rural Residential zones, it is excluded from any density calculations, if it remains accessory to a farm. If the property associated with a Farm [Tenant Dwelling] Labor Housing Unit is subsequently subdivided so that it is no longer accessory to the farm as defined in Section 59.3.7.4.B, the Farm [Tenant Dwelling] Labor Housing Unit is included in the density calculations.
- b. The maximum number of tenants in a single dwelling is limited by well and septic capacity.
- c. In the RE-2C zone only one Farm [Tenant Dwelling] Labor Housing Unit is allowed and it must be a mobile home.
- d. In the Agricultural, Rural Residential, RE-2, and RE-1 zones, a Farm [Tenant Dwelling] Labor Housing Unit in existence before June 1, 1958, may be rented to a tenant other than an agricultural worker, if the dwelling meets all applicable health and safety regulations.
- e. In the RE-2, RE-1, and R-200 zones, only one mobile home is allowed.
- f. A restrictive covenant must be recorded against the property to which the Farm Labor Housing Unit is accessory that delineates the limited use standards of Section 3.3.3.E. The covenant must be in a form approved by the County Attorney's Office, and subject to prior review by the County's Office of Agriculture and the Planning Board to verify that the Farm Labor Housing Unit satisfies the definitional requirements and limited use standards of the Zoning Ordinance prior to obtaining building permit approval for the unit.

* * *

Section 3.5.6. Lodging

B. Bed and Breakfast

2. Use Standards

a. Where a Bed and Breakfast is allowed as a limited use, it must satisfy the following standards:

i. A Bed and Breakfast is prohibited in a dwelling unit that also provides guest rooms for roomers, or in a Farm [Tenant Dwelling] Labor Housing Unit, or on a site that includes an Accessory Apartment.

Sec. 3. Article 59-4. is amended as follows:

Division 4.1. Rules for All Zones

* * *

Section 4.1.2. Compliance Required

* * *

C. In the Agricultural, Rural Residential, and Residential Detached zones, only one detached house is allowed per lot, except as allowed under Section [3.1.6](#) for a Detached Accessory Apartment, Farm [Tenant Dwelling] Labor Housing Unit, or Guest House, or under Section [7.7.1.A.1](#) for an Existing Structure on October 30, 2014.

* * *

Division 4.2. Agricultural Zone

Section 4.2.1. Agricultural Reserve Zone (AR)

98 * * *

99 **D. Special Requirements for the Transfer of Density**

100 1. In General

101 a. Under Section 4.9.15.B and in conformance with a general
 102 plan, master plan, or functional master plan, residential density
 103 may be transferred at the rate of one development right per 5
 104 acres minus one development right for each existing dwelling
 105 unit, from the AR zone to a TDR Overlay zone. A development
 106 right is not required for the following dwelling units on land in
 107 the AR zone as long as the dwelling unit remains accessory to
 108 Farming and the principal dwelling:

109 [a] i. Farm [Tenant Dwelling] Labor Housing Unit[,]; and

110 [b. Attached Accessory Apartment,]

111 [c] ii. Detached Accessory Apartment[, and]

112 [d. Bed and Breakfast.]

113 b. If a property is subdivided so that any Farm Labor Housing
 114 Units or Detached Accessory Apartments are no longer
 115 accessory to the farm as defined in Section 59.3.7.4.B,
 116 [dwellings associated with these uses] any Farm [Tenant
 117 Dwellings] Labor Housing Units or Detached Accessory
 118 Apartments are not excluded from the calculation of density
 119 and must have retained a development right in addition to the
 120 retained development right for any newly created lot; however,
 121 these dwellings are excluded from the density calculation and
 122 need not have a retained development right if:

123 i. the dwelling remains accessory to Farming and the
 124 principal dwelling; or

ii. the subdivision is for the sole purpose of creating a child lot.

c. The density transfer provisions are not applicable to publicly owned rights-of-way for roads, streets, alleys, easements, or rapid transit routes classified in the AR zone.

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Sec. 4 DIVISION 59-6. is amended as follows:

Section 6.2.4. Parking Requirements

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B. Vehicle Parking Spaces

USE or USE GROUP	Metric	Agricultural, Rural Residential, and Industrial Zones	Commercial/Residential and Employment Zones		
			Within a Parking Lot District or Reduced Parking Area	Outside a Parking Lot District or Reduced Parking Area	Within a Parking Lot District or Reduced Parking Area
		Baseline Minimum	Baseline Minimum	Baseline Maximum	Baseline Minimum
* * *					
Accessory Residential Uses					
* * *					
[Farm Tenant Dwelling] <u>Farm Labor Housing Unit</u>	Dwelling Unit	1.00	--	--	--
* * *					

Section 6.3.4. Rural Open Space

A. General Requirements

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4. Uses in Rural Open Space

a. In the RC zone, the following uses allowed under Article [59-3](#) are prohibited in any rural open space area:

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vii. Farm [Tenant Dwelling] Labor Housing Unit not associated with a farm in the rural open space;

Sec. 5 OLD ZONING ORDINANCE TO NEW ZONING ORDINANCE
SECTION CROSS REFERENCE is amended as follows:

Old ZONING ORDINANCE Article 59-G. Special Exceptions, Variances, and Nonconforming Uses.	New ZONING ORDINANCE
Division 59-G-2. Special Exceptions—Standards and Requirements.	Division 3.2. thru Division 3.7.
Sec. 59-G-2.00.1. Accessory dwelling.	Sec. 3.3.3.E.2. Use Standards [Farm Tenant Dwelling] <u>Farm Labor Housing Unit</u>
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Sec. 59-G-2.21.4. Farm tenant mobile home.	Sec. 3.3.3.E.2. Use Standards [Farm Tenant Dwelling] <u>Farm Labor Housing Unit</u>
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Sec. 6. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

158 Linda M. Lauer, Clerk of the Council